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Part V

Department of Education

Asbestos Detection and Control: Local Educational Agencies; Asbestos Detection and State Plan: State Educational Agencies

DEPARTMENT OF EDUCATION

34 CFR Parts 230 and 231

Asbestos Detection and Control: Local Educational Agencies; Asbestos Detection and State Plan: State Educational Agencies

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary of Education proposes regulations to implement the Asbestos School Hazard Detection and Control Act of 1980. These proposed regulations establish procedures to make available Federal grants to assist local educational agencies (LEAs) and State educational agencies (SEAs) in the identification of asbestos hazards in school buildings and Federal interest-free loans to LEAs to correct those hazards.

DATES: Comments must be received on or before November 3, 1980.

ADDRESSES: Comments should be addressed to Dr. Herman Goldberg, U.S. Department of Education, Room 2079, FOB–6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Herman Goldberg. Telephone: (202) 245–8094.

SUPPLEMENTARY INFORMATION.

A. Background and Overview

The Asbestos School Hazard Detection and Control Act of 1980, Pub. L. 96–270 (referred to in this preamble as the Act), was enacted by the Congress in response to scientific evidence that asbestos—which was commonly used in building materials in school facilities—poses an imminent hazard to the health and safety of school children and school employees if the asbestos fibers are capable of being released into the school building environment.

At present no funds have been appropriated under the Act, and it is possible that no funds will be appropriated during the period in which the LEA conducts its required detection activities. However, should the Congress in the future appropriate funds under this Act, an LEA that conducted an asbestos detection project since January 1, 1976 in compliance with the appropriate procedures and standards in these regulations will be eligible to receive a grant from the Secretary as partial reimbursement for its costs.

The Act requires each State to submit to the Secretary of Education (referred to in this preamble as the Secretary) a State plan for dissemination information and keeping records on asbestos programs and, also, authorizes—

(1) Grants to LEAs and SEAs for the identification of asbestos hazards in school buildings; and

(2) Loans to LEAs to correct those hazards.

In addition, the Act establishes a Task Force composed of ten individuals—six representing specified Government agencies and four representing organizations concerned with education and health. The duties of the Task Force include advising the Secretary on the standards for identifying and correcting asbestos hazards in school buildings and on applications for grants and loans.

These proposed regulations are divided into two parts. Part 230 (Asbestos Detection and Contol: Local Educational Agencies) describes how an LEA may—if funds become available—be eligible for and apply for a grant to conduct an asbestos detection project. This type of project consists of activities to test building materials to identify asbestos hazards in schools.

It should be noted that, under the Act, an LEA is defined to include the governing authority of a nonprofit private elementary or secondary school.

Part 230 also describes how an LEA may—if funds become available—be eligible for and apply for a loan to conduct an asbestos control project. This type of project consists of activities to correct imminent hazards to the health and safety of school children and school employees posed by the presence of asbestos in school building materials.

Part 231 (Asbestos Detection and State Plan: State Educational Agencies) describes how an SEA may—if funds become available—be eligible for and apply for a grant partially reimbursing its State if that State has made or is making grants to its LEAs to conduct asbestos detection projects.

Part 231 also implements the statutory requirement that the SEA in any State receiving Federal funds for the adminstration of any applicable program (as defined in Section 400(c)(1)(A) of the General Education Provisions Act) submit to the Secretary a State plan. This plan must contain, among other things, a description of how the State proposes to distribute to its LEAs information on the asbestos detection and control programs under the Act and how the State proposes to maintain records on any detection and control activities in its LEAs.

These proposed regulations are to be used in conjunction with regulations that are being proposed by the Environmental Protection Agency (EPA)—under the Toxic Substances and Control Act of 1976—on asbestos in schools. Those proposed regulations—published elsewhere in this issue of the **Federal Register**—require LEAs to conduct detection activities to identify in school buildings friable building materials containing asbestos and to maintain records on those activities.

The Department of Education and EPA have made every effort to coordinate their requirements and procedures in order to avoid duplication and inconsistencies in the agencies' respective regulations. Comments received on provisions relevent to both agencies will be exchanged between the agencies.

An LEA—being required by EPA regulations to detect friable building materials containing asbestos—should be eligible to apply for a grant from the Secretary under the LEA Asbestos Detection Program.

Despite the lack of an appropriation for these programs, every SEA should note that it must comply with the provisions in Part 231 concerning the submission of the State plan by December 15, 1980, as required by the Act.

B. Summary of the Major Provisions

1. *Eligibility under the LEA Asbestos Detection and Control Programs (§ 230.2).*

This section describes the requirements an LEA must meet to be eligible for Federal assistance under the LEA Asbestos Detection and Control Programs.

An LEA is eligible for a grant under the LEA Asbestos Detection Program if that LEA proposes to conduct, or has conducted since January 1, 1976, an asbestos detection project in compliance with the applicable procedures and standards prescribed in these proposed regulations.

To avoid penalizing an LEA that undertook an asbestos detection project before the publication of these procedures and standards, this section defines "compliance" to mean "substantial compliance" if the project was conducted between January 1, 1976 and the effective date of these regulations.

However, if an LEA conducted a project after the effective date of these regulations but before the Congress appropriated funds for the detection program, that LEA would be eligible for retroactive assistance only if its project were conducted in full compliance with the applicable procedures and standards prescribed in these proposed regulations.

This section also provides that, before an LEA is eligible for a loan under the LEA Asbestos Control Program, that LEA must have conducted an asbestos

detection project in compliance (or, between January 1, 1976 and the effective date of these regulations, in substantial compliance) with the applicable procedures and standards required in these regulations.

In addition, an LEA does not qualify for a loan unless the project involves more than 2,500 square feet of surface and meets the criteria established by the Secretary, under the Act, for determining eligibility for loans. These criteria will be established when appropriations become available for the LEA Asbestos Control Program.

Also, this section defines "compliance" to mean "substantial compliance" if a control project was conducted prior to the date that loans are available.

2. *Amount of Award to an LEA (§§ 230.30, 230.32, 230.33, and 230.34).*

These sections describe the amount of a grant in LEA may receive for an asbestos detection project and the amount of a loan an LEA may receive for an asbestos control project.

Section 230.30 provides that, generally, the Secretary makes a grant equal to 50 percent of the costs that an eligible LEA incurs or has incurred in conducting an asbestos detection project. The other 50 percent of the costs of the project is to be borne by the LEA through non-Federal monies. This 50 percent limitation on the amount of Federal assistance also applies to loan awards, as described in § 230.32.

However, an eligible LEA may qualify for a grant or loan greater than 50 percent if the Secretary determines—on the basis of one or more of the factors listed in each of paragraphs (b) and (c) of § 230.33—that the LEA has limited financial resources and would be unable to participate without an increased award. If appropriations are insufficient to meet the 50 percent levels of assistance, § 230.34 provides that the Secretary may consider one or more of the factors listed in each of parapraphs (b) and (c) of § 230.33 in determining which LEAs have the greatest financial need for assistance under this program.

The amount of an award to which the Secretary determines the grantee is entitled constitutes the Federal share. The Secretary does not make an award greater than this Federal share. This amount applies whether Federal funds for this project are paid directly to the LEA, or to the SEA (under 34 CFR Part 231) as reimbursement for funds that State has paid to the LEA, or are paid to both the LEA and the SEA.

For example, the Secretary determines that, for a certain LEA, the Federal share is to be 50 percent. The State, which is making grants to help the LEA conduct its asbestos detection project, applies to the Secretary for a reimbursement grant under the SEA Asbestos Detection Program in 45 CFR Part 231. The LEA also applies to the Secretary for a grant, under the LEA Asbestos Detection Program in 34 CFR Part 230.

If the State is funding 80 percent of the costs of the LEA's detection project, and if the Secretary makes a grant to the SEA equal to one half of the State's total award to the LEA, the Secretary is, in effect, funding 40 percent of the LEA's project through the reimbursement to the State.

Therefore, the Secretary makes a grant to the LEA under the LEA Asbestos Detection Program in an amount no greater than 10 percent of the costs of that LEA's project. The total of 40 percent and 10 percent is equal to the Federal share of 50 percent of that project.

3. *Standards and Procedures for Conducting LEA Asbestos Detection and Control Projects (§§ 230.40, 230.42, 230.43, 230.45, 230.46, and 230.47).*

These sections describe technical procedures and standards to which an LEA must adhere when conducting either an asbestos detection project or an asbestos control project. These sections also prescribe standards that a grantee must use to determine the qualifications of any contractor it hires to carry out an asbestos detection project or an asbestos control project.

The Secretary has relied heavily on the technical and scientific expertise of EPA in establishing these procedures. Most of the procedures and standards prescribed in these proposed regulations for conducting an asbestos detection project have been adopted directly from those procedures established in EPA's proposed regulations for asbestos in schools (40 CFR Part 763) published elsewhere in this issue of the Federal Register.

Many of the other procedures—such as those to evaluate the likelihood of leakage of asbestos fibers, to contain or remove building materials containing asbestos, and to determine the qualifications of a contractor—have been adopted from guidelines of EPA.

These guidelines continue to be evaluated by EPA. The Secretary, therefore, invites interested parties to assist in this assessment of the guidelines, as well as of the other procedures and standards in these proposed regulations. In addition, the Secretary welcomes recommendations—with accompanying assessments—of any other procedures and standards that might be used in meeting the statutory requirements on which these proposed regulations are based.

The heavy reliance on EPA procedures is part of a larger effort, described in Part A of this preamble, to coordinate the requirements and procedures in the respective agencies' proposed regulations, as specified in the Act. These procedures and standards are subject to changes in the final regulations. Changes will be based on a consideration of public comments received on both sets of proposed regulations, results of further scientific and technical research, and a review of the proposed regulations by the Task Force.

4. *Eligibility under the SEA Asbestos Detection Program (§ 231.2).*

To encourage a State to establish its own asbestos detection program in which grants are made by the State to help its LEAs conduct asbestos detection projects and to benefit a State that already has this type of program, Part 231 of these regulations establishes a Federal grant reimbursement program for SEAs.

Section 231.2 provides that an SEA is eligible for a grant under the SEA Asbestos Detection Program if the State—through the SEA or other appropriate State agency—has made or is making grants to its LEAs to conduct asbestos detection projects that comply (or, if the projects were conducted between January 1, 1976 and the effective date of these regulations, substantially comply) with the technical procedures and standards prescribed in these regulations. Loans for asbestos control projects are not available to the SEA.

5. *Amount of the Grant to an SEA (§§ 231.30, 231.31, and 231.32).*

These sections describe the amount of a grant an SEA may receive under the SEA Asbestos Detection Program. Section 231.30 provides that, generally, the Secretary makes a grant equal to 50 percent of the State's award to its LEAs to conduct asbestos detection projects.

However, as described in § 231.31, an eligible SEA may qualify for a grant greater than 50 percent if the Secretary determines that the SEA has limited financial resources and would be unable to participate in the SEA Asbestos Detection Program without an increased award.

Section 231.32 provides that, in the event appropriations are insufficient to meet the standard level of assistance (50 percent), the Secretary may determine which SEAs have the greatest need for assistance by considering the percentage of a State's LEAs that have applied to the State for assistance and the needs of these LEAs.

Section 231.30 reflects the principle stated in 34 CFR 230.30 that the

Secretary may restrict the amount of a grant to ensure that an LEA does not receive an award greater than the Federal share that the Secretary has determined. An illustration of this principle is provided in item 2 of this Summary of the Major Provisions.

6. *The State Plan (§§ 231.70–231.73).*

These sections implement certain statutory provisions required of any State receiving Federal funds for the administration of any applicable program (as defined in Section 400(c)(1)(A) of the General Education Provisions Act) and of the SEA of that State. These sections apply whether or not that State or its LEAs participate in the asbestos detection or control programs under the Act.

Section 231.70 describes the contents of the State plan that an SEA must submit to the Secretary no later than December 15, 1980. This plan must contain, among other things, a description of the manner in which the State proposes to distribute to its LEAs the information required in § 231.71, a description of the procedures the State will use for maintaining the records described in § 231.72, and the designation of a State agency or other State administrative unit responsible for submitting to the Secretary the reports required in § 231.73.

Section 231.71 requires a State, not later than March 15, 1981, to distribute to each of its LEAs information describing the asbestos detection and control programs, the procedures and standards for conducting those programs, and the health hazards associated with exposure to asbestos fibers.

To reduce the burden on a State, this section provides that a State that distributes to each of its LEAs a copy of the regulations in 34 CFR Parts 230 and 231, including all appendices, is considered by the Secretary to be in compliance with some of the distribution requirements.

Section 231.72 requires a State to maintain records on the detection and control activities of each of its LEAs and the presence, if any, of friable building materials containing asbestos in each LEA's schools.

Section 231.73 requires a State to submit to the Secretary at six-month intervals reports that describe what the State has done with regard to the distribution of required materials and the maintenance of required records.

A large part of the coordination efforts between the Department of Education and EPA involved integrating, to the extent possible, the record-keeping requirements in the proposed regulations of both agencies.

EPA is requiring, in its proposed regulations published today, that each LEA—by completing a certain form prescribed by EPA—retain records on its detection activities and on the amount of friable building materials containing asbestos found as a result of those activities. To reduce the burden on an SEA in complying with the record-keeping requirements under the Department's proposed regulations, § 231.72(e) provides that a State that maintains a copy of the record-keeping form completed by each of its LEAs in compliance with EPA regulations is considered by the Secretary to be in compliance with the requirements in § 231.72 for maintaining records on detection activities of its LEAs and the presence, if any, of friable building materials containing asbestos in each LEA's schools.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations and appendices. Written comments and recommendations may be sent to the address given at the beginning of this preamble. All comments received on or before the 45th day after publication of this document will be considered in the development of the final regulations.

All comments submitted in response to these proposed regulations and appendices will be available for public inspection, during and after the comment period, in Room 2079, FOB–6, 400 Maryland Avenue, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance No. not assigned yet)

Dated: Sep. 5, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by adding a new Part 230 to read as follows:

PART 230—ASBESTOS DETECTION AND CONTROL: LOCAL EDUCATIONAL AGENCIES

Subpart A—General

Sec.

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230.45 What are the procedures for containing or removing asbestos materials?
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Subpart F—What Are the Administrative Responsibilities of a Grantee?

230.60 What report must a grantee submit?
Appendix A—Asbestos Exposure Assessment Algorithm and Corrective Action Scale
Appendix B—Procedures for Containing and Removing Asbestos-Containing Building Materials

Authority: The Asbestos School Hazard Detection and Control Act of 1980. Pub. L. 96–270 (20 U.S.C. 3601–3611, 94 Stat. 487) and Section 414(a) of the Department of Education Organization Act, Pub. L. 96–88 (20 U.S.C. 3474(a), 93 Stat. 685)

Subpart A—General

§ 230.1 Asbestos detection and control: Local educational agencies.

The Asbestos Detection and Control Programs for Local Educational Agencies (LEAs) consist of—

(a) *LEA Asbestos Detection Program.* This program provides Federal grants to LEAs to identify asbestos hazards in school buildings; and

(b) *LEA Asbestos Control Program.* This program provides Federal interest-free loans to LEAs to correct imminent hazards to health and safety of school children and school employees posed by the presence of asbestos in school buildings.

(20 U.S.C. 3604(a)(1)(A); 20 U.S.C. 3605(a)(1); and (2))

§ 230.2 Who is eligible for assistance under these programs?

(a)(1) An LEA[1] is eligible for a grant under the LEA Asbestos Detection Program if that LEA proposes to conduct or has conducted since January 1, 1976 an asbestos detection project that is in compliance with the procedures and standards in §§ 230.40, 230.42, and 230.43.

(2) As used in paragraph (a)(1) of this section and throughout this part, the term "compliance" in reference to any asbestos detection project conducted prior to the effective date of these regulations means substantial compliance.

(b)(1) An LEA is eligible for a loan under the LEA Asbestos Control Program if that LEA—

(i) Has conducted an asbestos detection project in compliance with the procedures and standards in §§ 230.40, 230.42, and 230.43; and

(ii) Proposes to carry out or has carried out subsequent to January 1, 1976 an asbestos control project—

(A) In compliance with the procedures and standards in §§ 230.45 through 230.47, as applicable;

(B) Involving more than 2,500 square feet of surface; and

(C) Meeting the criteria established by the Secretary under Section 7(a)(2) of the Act. These criteria will be established if appropriations become available for the LEA Asbestos Control Program.

(2) As used in paragraphs (b)(1)(i) and (b)(1)(ii)(A) of this section and throughtout this part, the term "compliance" in reference to any asbestos control project conducted prior to the date when loans are available means substantial compliance.

(20 U.S.C. 3604 (a)(1)(A); and (b)(3); 20 U.S.C. 3605(a)(2) and (c)(1) and (3))

§ 230.3 What regulations apply to these programs?

(a) In addition to the regulations in this Part 230, the following regulations apply to the LEA Asbestos Detection Program and the LEA Asbestos Control Program?

(1) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100c (General) except the following definitions:

(i) Award.

(ii) Recipient.

(2) The regulations in 34 CFR Part 231 (Asbestos Detection and State Plan: State Educational Agencies).

(3) The regulations in 40 CFR Part 763 Subpart F (regulations proposed by the Environmental Protection Agency (EPA) for asbestos in schools).

(b) In addition to the regulations in paragraph (a) of this section, the LEA Asbestos Detection Program is also governed by the regulations in EDGAR, 45 CFR Part 100a (Direct Grant Programs) except the following:

(1) Section 100a.107 and 100a.108 (pertaining to applications for new grants under discretionary grant programs and under formula grant programs).

(2) Section 100a.111 (pertaining to the description of a project).

(3) Section 100a.116 (pertaining to the demonstration of capability).

(4) Section 100a.200 through 100a.215 (pertaining to the selection of new projects, including selection criteria).

(5) Sections 100a.217 through 100a.236 (pertaining to selection procedures and procedures for making a grant).

(20 U.S.C. 3474(a))

§ 230.4 What definitions apply to these programs?

The following definitions apply to the LEA Asbestos Detection Program and the LEA Asbestos Control Program:

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 45 CFR 100c.1:

Applicant	Private
Application	Project
EDGAR	Secretary
Grant	State educational agency (SEA).
Grantee	
Nonprofit	

(b) *Definitions that apply to this part.* The following definitions apply to this part:

"Act" means the Asbestos School Hazard Detection and Control Act of 1980 (Pub. L. 96–270).

"Asbestos" means—

(1) Chrysotile, amosite, or crocidolite; or

(2) In fibrous form, tremolite, anthophyllite, or actinolite.

"Asbestos control project" means activities—described in § 230.11—designed to correct imminent hazards to the health and safety of school children and school employees posed by the presence of asbestos in school buildings.

"Asbestos detection project" means activities designed to test building materials in order to identify asbestos hazards in school buildings.

"Award" means—

(1) The amount of funds that the Secretary provides to a grantee under the LEA Asbestos Detection Program; or

(2) The amount of funds that the Secretary provides to an applicant for a loan under the LEA Asbestos Control Program.

"Friable" means able to be crumbled, pulverized, or reduced to powder by hand.

"Imminent hazards" means, with reference to asbestos, that the asbestos is contained in building material whose fibers could be released into a school building environment because that building material is—

(1) Friable;

(2) Easily damaged;

(3) Susceptible to damage because it is within easy reach of school children or school employees; or

(4) Otherwise susceptible to damage, including damage from water or air circulation.

"Local educational agency" means—

(1) An LEA as defined in EDGAR, 45 CFR 100c.1;

(2) The governing body of a nonprofit private elementary or secondary school, as defined in section 11 of the Act; or

(3) A School of an agency of the United States.

"Recipient" means—

[1] (Note.—As used in these programs, the term LEA includes the governing authority of a nonprofit private elementary or secondary school as defined in § 230.4(b).)

(1) A grantee under LEA Asbestos Detection Program; or

(2) An applicant that receives a loan under the LEA Asbestos Control Program.

"School buildings" means—

(1) Structures suitable for use as classroom, laboratories, libraries, school eating facilities, or school facilities used for the preparation of food;

(2) Gymnasiums or other indoor facilities designed especially for athletic or recreational activities included in an academic course in physical education;

(3) Other facilities used for the instruction of students, for research, or for the administration of educational or research programs; or

(4) Maintenance, storage, or utility facilities essential to the operation of any of the facilities listed in paragraphs (1) through (3) of this definition.

"State" means—

(1) A State as defined in EDGAR, 45 CFR 100c.1; or

(2) The Bureau of Indian Affairs.

(20 U.S.C. 3610; 20 U.S.C. 2854; 45 CFR 100c.1)

Subpart B—What Kinds of Projects Does the Department of Education Assist Under These Programs?

§ 230.10 What kinds of activities are assisted under the LEA Asbestos Detection Program?

The Secretary provides a grant to an eligible applicant under the LEA Asbestos Detection Program for the following activities conducted in accordance with the procedures and standards in §§ 230.40, 230.42, and 230.43:

(a) Making a visual inspection of school buildings to detect friable building materials.

(b) Collecting samples of the friable building materials referred to in paragraph (a) of this section.

(c) Analyzing the samples referred to in paragraph (b) of this section to determine the presence of asbestos.

(d) Determining the extent of the health hazards posed by the asbestos referred to in paragraph (c) of this section by evaluating the likelihood of the leakage of fibers of that asbestos into the school environment.

(20 U.S.C. 3604(b)(4))

§ 230.11 What kinds of activities are assisted under the LEA Asbestos Control Program?

The Secretary provides a loan to an eligible applicant under the LEA Asbestos Control Program for the following activities conducted in accordance with the procedures and standards in §§ 230.45 through 230.47, as applicable:

(a) Containing or removing school building materials that contain asbestos posing an imminent hazard to the health and safety of school children and school employees.

(b) Replacing the materials referred to in paragraph (a) of this section with other appropriate building materials.

(c) Making repairs the Secretary considers necessary to restore school buildings to conditions comparable to those that exited before the activities in paragraphs (a) and (b) of this section were carried out.

(20 U.S.C. 3605(a)(2))

Subpart C—How Does One Apply Under These Programs?

§ 230.20 How does one apply for a grant under the LEA Asbestos Detection Program?

(a) To apply for a grant under the LEA Asbestos Detection Program, an applicant must file with the Secretary an application meeting the requirements of—

(1) EDGAR, 45 CFR 100a.109 and 100a.110;

(2) EDGAR, 45 CFR 100a.112 through 100a.115; and

(3) Section 5(b)(1) of the Act (describing the contents of an application under this program).

(b) An applicant for a grant for an asbestos detection project conducted between January 1, 1976 and the date of its application shall include in its application—in addition to the information required in paragraph (a) of this section—an assurance that it conducted the project in compliance with the requirements in §§ 230.40, 230.42, and 230.43.

(20 U.S.C. 3604(b) (1) and (3); 45 CFR §§ 100a.109–110; 45 CFR §§ 100a.112–115)

§ 230.21 How does one apply for a loan under the LEA Asbestos Control Program?

(a) To apply for a loan under the LEA Asbestos Control Program, an applicant must file with the Secretary an application containing the information required in section 6(c)(1) of the Act (describing the contents of an appliction under this program).

(b) An applicant for a loan for an asbestos control project conducted between January 1, 1976 and the date of its application shall include in its application—in addition to the information required in paragraph (a) of this section—an assurance that it conducted the project in compliance with the requirements in §§ 230.45 through 230.47, as applicable.

(20 U.S.C. 3605(c) (1) and (3))

§ 230.22 In what circumstances may an LEA apply for a grant or loan greater than 50 percent?

(a) If an LEA believes that it would be unable to participate in the LEA Asbestos Detection Program or the LEA Asbestos Control Program because of limited resources, the LEA may submit to the Secretary, together with its application, a request for a grant or loan greater than the amount provided by the Secretary under §§ 230.30 or 230.32.

(b) The LEA shall include in its request for an increased award, information that substantiates its claim of limited financial resources. This may include the most recently available data describing any applicable factors listed in § 230.33 (b) and (c).

(20 U.S.C. 3604(a)(2); 20 U.S.C. 3605(a)(3); 20 U.S.C. 3474(a))

§ 230.23 What records must an LEA maintain?

An LEA that applies for a grant under the LEA Asbestos Detection Program or a loan under the LEA Asbestos Control Program shall maintain and make available to the Secretary on request whatever records are necessary to substantiate claims—including cost claims—in the LEA's application.

(20 U.S.C. 3604(b)(91); 20 U.S.C. 3605(c)(1); 20 U.S.C. 3474(a))

Subpart D—How Does the Secretary Make an Award?

§ 230.30 How does the Secretary determine the amount of a grant for an asbestos detection project?

(a) Except as provided in §§ 230.33 and 230.34, the Secretary makes a grant equal to 50 percent of the costs that an eligible LEA incurs or has incurred in conducting an asbestos detection project.

(b)(1) The amount awarded by the Secretary is the Federal share of the grantee's project.

(2) This applies whether Federal funds for the project are paid—

(i) Directly to the LEA;

(ii) To the SEA under 34 CFR Part 231 for reimbursement of funds it has paid to the LEA for this project; or

(iii) To both the LEA and the SEA.

(20 U.S.C. 3604 (a)(2) and (a)(1)(B))

§ 230.31 What criteria does the Secretary apply in selecting loan recipients?

In selecting loan recipients under the LEA Asbestos Control Program, the Secretary applies the following criteria:

(a) The likelihood of leakage as determined under the Asbestos Exposure Assessment Algorithm in Appendix A of these regulations.

(b)(1) The extent to which the corrective action proposed by the applicant will reduce the imminent hazards to the health and safety of school children and school employees; or

(2) The extent to which corrective action that the applicant took since January 1, 1976 reduced imminent hazards to the health and safety of school children and school employees.

(c)(1) The extent to which the corrective action proposed by the applicant is cost-effective; or

(2) The extent to which corrective action that the applicant took since January 1, 1976 was cost-effective.

(20 U.S.C. 3606(a)(2))

§ 230.32 How does the Secretary determine the amount of a loan for an asbestos control project?

Except as provided in §§ 230.33 and 230.34, the Secretary may make an interest-free loan equal to 50 percent of the costs that an eligible LEA incurs or has incurred in conducting an asbestos control project.

(20 U.S.C. 3605(a)(2))

§ 230.33 What criteria does the Secretary apply in considering an application for a grant or loan greater than 50 percent?

(a) The Secretary may increase the amount of a grant or loan if the Secretary determines that an eligible LEA has limited financial resources and would be unable to participate in the LEA Asbestos Detection Program or the LEA Asbestos Control Program without an increased award.

(b) The Secretary considers one or more of the following factors in determining whether an eligible LEA has limited financial resources:

(1) A measure of financial need used by the State in which the LEA is located.

(2) The per capita income of the LEA or county.

(3) The local school millage rate compared with the millage rate that the State determines to be reasonable for that LEA or county.

(4) Any other factor that demonstrates that the LEA has limited financial resources.

(c) The Secretary considers one or more of the following factors, as they relate to the factors listed in paragraph (b) of this section, in determining whether an LEA would be unable to participate in the LEA Asbestos Detection Program or the LEA Asbestos Control Program without an increased award:

(1) The ratio, expressed as a percentage, of (i) the cost of the project to (ii) the total budget of the LEA.

(2) The square footage of the structures to be included in the project compared with the total square footage of school buildings in the LEA.

(3) The known or estimated asbestos content in friable building materials used in the LEA's school buildings.

(4) The likelihood of leakage of asbestos fibers in building materials used in the LEA's school buildings.

(5) The number of persons using the LEA's school buildings who are or will be exposed to asbestos that poses an imminent hazard.

(6) Any other factor that demonstrates that the LEA would be unable to participate in the LEA Asbestos Detection Program or the LEA Asbestos Control Program without an increased award.

(20 U.S.C. 3604(a)(2); 20 U.S.C. 3605(a)(3))

§ 230.34 What criteria does the Secretary apply if appropriations do not meet the 50 percent levels of assistance?

If appropriations under the LEA Asbestos Detection Program or the LEA Asbestos Control Program do not meet the levels of assistance described in §§ 230.30 and 230.32, the Secretary may consider one or more of the factors in each of paragraphs (b) and (c) of § 230.33 in determining which LEAs have the greatest financial need for assistance under the Act.

(20 U.S.C. 3611(c); 20 U.S.C. 1226a)

Subpart E—What Conditions Must Be Met by a Recipient?

Procedures and Standards for an Asbestos Detection Project

§ 230.40 What are the procedures for conducting an asbestos detection project?

In conducting an asbestos detection project, a grantee under the LEA Asbestos Detection Program shall adhere to the following procedures:

(a) For making a visual inspection of school buildings, the procedures in 40 CFR 763.3 (Proposed EPA regulations).

(b) For sampling friable materials, the procedures in 40 CFR 763.4 (Proposed EPA regulations).

(c) For analyzing friable materials to determine their asbestos content, the procedures in 40 CFR 763.5 (proposed EPA regulations).

(d) For evaluating the likelihood of leakage of asbestos fibers, the procedures referred to in § 230.42.

(20 U.S.C. 3606 (a)(1) and (c))

§ 230.41 What safety measures does the Secretary recommend to a grantee conducting an asbestos detection project?

The Secretary recommends that a grantee under the LEA Asbestos Detection Program adhere to the following safety precautions in conducting its asbestos detection project:

(a) Material should be sampled only when the area in which that material is located is not in use.

(b) Only persons needed for sampling should be present.

(c) The sampling container should be held away from the face during the actual collection of the sample.

(d) The material should not be disturbed more than is necessary.

(e) The material should be sprayed with a light mist of water to prevent fiber release during sampling.

(20 U.S.C. 3606 (a)(1) and (c))

§ 230.42 How does a grantee evaluate the likelihood of leakage of asbestos fibers?

A grantee under the LEA Asbestos Detection Program shall apply the Asbestos Exposure Assessment Algorithm in Appendix A of these regulations to evaluate the likelihood of the leakage of asbestos fibers into a school environment.

(20 U.S.C. 3606 (a)(1) and (c))

§ 230.43 What standards does a grantee apply in determining the qualifications of a contractor to carry out an asbestos detection project?

If a grantee under the LEA Asbestos Detection Program selects a contractor to carry out any or all of the activities under the grantee's asbestos detection project, the grantee shall determine the qualifications of that contractor by applying the following standards:

(a) For making a visual inspection of school buildings, the contractor's knowledge of and familiarity with the procedures in 40 CFR 763.3 (proposed EPA regulations).

(b) For sampling friable materials, the contractor's knowledge of and familiarity with the procedures in 40 CFR 763.4 (proposed EPA regulations).

(c)(1) For analyzing friable materials to determine their asbestos content, the contractor's proficiency in the analytic techniques in 40 CFR 763.5 (proposed EPA regulations).

(2) In addition, the Secretary encourages the grantee to consult the results of the Asbestos Analytic Laboratory Proficiency Program, which assessed the ability of participating laboratories to analyze materials for asbestos.

(3) The Secretary makes available to SEAs on request the results of the analytic proficiency program referred to in paragraph (c)(2) of this section.

(d)(1) For evaluating the likelihood of leakage of asbestos fibers, the contractor's knowledge of and familiarity with the Asbestos Exposure

Assessment Algorithm in Appendix A of these regulations.

(2) In addition, the Secretary encourages the grantee to consider the contractor's experience with the algorithm and past participation in training programs for using the algorithm.

(3) The Secretary makes available to SEAs on request, training materials and instructional aids to assist contractors in applying the algorithm.

(20 U.S.C. 3606 (a)(1) and (c))

§ 230.44 [Reserved]

Procedures and Standards for an Asbestos Control Project

§ 230.45 What are the procedures for containing or removing asbestos materials?

In conducting an asbestos control project the recipient of a loan under the LEA Asbestos Control Program shall comply with the applicable procedures in Appendix B of these regulations for containing and removing asbestos materials.

(20 U.S.C. 3606(b)(1) and (c))

§ 230.46 What are the procedures for replacing building materials and restoring school buildings?

(a) In replacing building materials and restoring a school building to its previous condition, the recipient of a loan under the LEA Asbestos Control Program shall use materials that do not contain asbestos posing an imminent hazard to the health and safety of school children and school employees.

(b) In conducting replacement and restoration activities, the recipient of a loan shall use the appropriate method that is most cost-effective. (See Appendix B.)

(c) In conducting restoration activities, the recipient of a loan under the LEA Asbestos Control Program may use those funds to make only those repairs the Secretary considers necessary to restore a school building to a condition comparable to the condition that existed before the recipient carried out activities in § 230.11(a) and (b).

(20 U.S.C. 3606(b)(1))

§ 230.47 What standards does a recipient of a loan apply in determining the qualifications of a contractor to carry out an asbestos control project?

(a) If the recipient of a loan under LEA Asbestos Control Program selects a contractor to contain or remove asbestos materials as part of the recipient's asbestos control project, the recipient shall determine the qualifications of that contractor on the basis of the contractor's—

(1) Knowledge of and ability to comply with the National Emission Standards for Asbestos as described in 40 CFR 61.01 through 61.25;

(2) Knowledge of and ability to comply with the standards in the asbestos regulations under the Occupational Safety and Health Act as described in 29 CFR 1910.1001; and

(3)(i) Knowledge of an familiarity with the containment and removal practices described in Appendix B of these requlations.

(ii) In addition, the Secretary encourages the grantee to consider the contractor's exprience in carrying out asbestos containment and removal operations and past participation in training programs for proper containment and removal operations.

(iii) The Secretary makes available to SEAs on request training materials and instructional aids to assist contractors in carrying out proper containment and removal operations.

(b) If the recipient of a loan under the LEA Asbestos Control Program selects a contractor to replace building materials and restore school buildings as part of the recipient's asbestos control project, the recipient shall determine the qualifications of that contractor on the basis of the contractor's knowledge of and familiarity with the requirement of § 230.46(a)

(20 U.S.C. 3606(b)(2) and (c))

§ 230.48–230.49 [Reserved]

Fiscal Requirements

§ 230.50 What are the rules for repayment of a loan?

The following provisions apply to a loan to an LEA under the LEA Asbestos Control Program:

(a) The loan period begins on the effective date of the loan agreement.

(b) The LEA shall repay the loan within the period determined by the Secretary, but not to exceed 20 years.

(c) All other terms and conditions of the loan are contained in a loan agreement that the Secretary prepares and sends to the LEA.

(20 U.S.C. 3605(b))

Subpart F—What Are the Administrative Responsibilities of a Grantee?

§ 230.60 What report must a grantee submit?

In addition to any reports required by EDGAR, 45 CFR Part 100a, a grantee under LEA Asbestos Detection Program shall, not later than 120 days after receiving its grant, file with the Secretary a report that shall include—

(a) A detailed accounting of the funds used to carry out the grantee's asbestos detection project; and

(b) A description of—

(1) The detection activities that the grantee conducted;

(2) The results of the asbestos detection project, including any findings of the presence in school building materials of asbestos that poses an imminent hazard to the health and safety of school children and school employees; and

(3) The grantee's plans for correcting any imminent asbestos hazards that it detected.

(20 U.S.C. 3604(c); 45 CFR Part 100a)

Note.—Information in the following part—34 CFR Part 231—has a direct bearing on programs carried out under this Part 230. Readers are encouraged to read the following part for that information.

The Secretary amends Title 34 of the Code of Federal Regulations by adding a new Part 231 to read as follows:

Part 231—Asbestos Detection and State Plan: State Educational Agencies

Subpart A—General

Sec.

231.1 Asbestos Detection and State Plan: State Educational Agencies.
231.2 Who is eligible for a grant under the SEA Asbestos Detection Program?
231.3 What regulations apply to this part?
231.4 What definitions apply to this part?

Subpart B—[Reserved]

Subpart C—How Does One Apply for a Grant under the SEA Asbestos Detection Program?

231.20 How does an SEA apply for a grant under the SEA Asbestos Detection Program?
231.21 In what circumstances may an SEA apply for a grant greater than 50 percent?
231.22 What records must an SEA maintain?

Subpart D—How Does the Secretary Make an Award?

231.30 How does the Secretary determine the amount of a grant under the SEA Asbestos Detection Program?
231.31 What criteria does the Secretary apply in considering an application for a grant greater than 50 percent?
231.32 What criteria does the Secretary apply if appropriations do not meet the 50 percent level of assistance?

Subpart E—[Reserved]

Subpart F—What Are the Administrative Responsibilities of a Grantee?

231.50 What report must a grantee submit?

Subpart G—[Reserved]

Subpart H—What Is the State Plan under This Act?

231.70 What must a State plan contain?
231.71 What information must a State distribute to its LEAs?

Sec.
231.72 What records must a State maintain?
231.73 What reports must a State submit?

Authority: The Asbestos School Hazard Detection and Control Act of 1980, Pub. L. 91–270 (20 U.S.C. 3601–3611, 94 Stat. 487) and Section 414(a) of the Department of Education Organization Act, Pub. L. 96–88 (20 U.S.C. 3474(a), 93 Stat. 685).

Subpart A—General

§ 231.1 Asbestos Detection and State Plan: State Educational Agencies.

The Asbestos Detection Program and State Plan for State Educational Agencies (SEAs) consists of—

(a) *SEA Asbestos Detection Program.* This program provides Federal grants to SEAs to reimburse those States that have made or are making grants to their local educational agencies (LEAs)* to conduct asbestos detection projects; and

(b) *State Plan.* The SEA of any State that receives Federal funds for the administration of any applicable program—as defined in section 400(c)(1)(A) of the General Education Provisions Act—shall submit to the Secretary a plan as described in Subpart H of these regulations. Under the Asbestos School Hazard Detection and Control Act of 1980, the SEA shall submit this plan regardless of whether the SEA or its LEAs participate in the SEA or LEA asbestos detection programs.

(20 U.S.C. 3604(a)(1)(B); 20 U.S.C. 3603(a))

§ 231.2 Who is eligible for a grant under the SEA Asbestos Detection Program?

An SEA is eligible for a grant under the SEA Asbestos Detection Program if the State—through the SEA or other appropriate State agency—has made or is making grants to its LEAs to conduct asbestos detection projects—

(a) Conducted on or after the effective date of these regulations in compliance with the procedures and standards in 34 CFR 230.40, 230.42, and 230.43; or

(b) Conducted between January 1, 1976 and the effective date of these regulations in substantial compliance with the procedures and standards in 34 CFR 230.40, 230.42, and 230.43.

(20 U.S.C. 3604(a)(1)(B); and (b)(3))

§ 231.3 What regulations apply to this part?

In addition to the regulations in this Part 231, the following regulations apply to Asbestos Detection and State Plan: State Educational Agencies:

(a) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Programs) and 45 CFR 100c (General) except the following:

(1) Sections 100a.107 and 100a.108 (pertaining to applications for new grants under discretionary grant programs and under formula grant programs).

(2) Section 110a.111 (pertaining to the description of a project).

(3) Section 100a.116 (pertaining to the demonstration of capability).

(4) Sections 100a.200 through 100a.215 (pertaining to the selection of new projects, including selection criteria).

(5) Sections 100a.217 through 100a.236 (pertaining to selection procedures and procedures for making a grant).

(b) The regulations in 34 CFR Part 230 (Asbestos Detection and Control: Local Educational Agencies).

(c) The regulations in 40 CFR Part 763, Subpart F (regulations proposed by the Environmental Protection Agency (EPA) for asbestos in schools).

(20 U.S.C. 3474(a))

§ 231.4 What definitions apply to this part?

The following definitions apply to Asbestos Detection and State Plan: State Educational Agencies:

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 45 CFR 100c.1:

Applicant	Private
Application	Project
Award	Recipient
EDGAR	Secretary
Grant	State educational agency (SEA)
Grantee	
Nonprofit	

(b) *Definitions in 34 CFR Part 230.* The definitions in 34 CFR 230.4(b) (the definitions section of Asbestos Detection and Control: Local Educational Agencies) apply also to this Part 231 except the following:

Award and Recipient.

(c) As used in this part, the term "State plan" or "plan" means the plan referred to in § 231.1(b) and described in Subpart H of these regulations.

(20 U.S.C. 3610; 20 U.S.C. 2854; 54 CFR 100c.1)

Subpart B—[Reserved]

Subpart C—How Does One Apply for a Grant Under the SEA Asbestos Detection Program?

§ 231.20 How does an SEA apply for a grant under the SEA Asbestos Detection Program?

To apply for a grant under the SEA Asbestos Detection Program, an SEA must file with the Secretary an application—

(a) Meeting the requirements of—

(1) EDGAR, 45 CFR 100a.109 and 100a.110;

(2) EDGAR, 45 CFR 100a.112 through 100a.115; and

(3) Section 5(b)(1) of the Act (describing the contents of an application under this program); and

(b)(1) For asbestos detection projects conducted by its LEAs between January 1, 1976 and the effective date of these regulations, an assurance by the SEA that the LEAs conducted those projects in substantial compliance with the requirements in 34 CFR 230.40, 230.42, and 230.43; and

(2) For asbestos detection projects conducted by its LEAs on or after the effective date of these regulations, an assurance by the SEA that the LEAs conducted those projects in compliance with the requirements in 34 CFR 230.40, 230.42, and 230.43.

(20 U.S.C. 3604(b)(1); and (b)(3); 45 CFR 100a.109–100a.110; 45 CFR 100a.112–100a.115)

§ 231.21 In what circumstances may an SEA apply for a grant greater than 50 percent?

(a) If an SEA believes that it would be unable to participate in the SEA Asbestos Detection Program because of limited financial resources, the SEA may submit to the Secretary, together with its application, a request for a grant greater than the amount provided by the Secretary under § 231.30.

(b) The SEA shall include in its request for an increased award information that substantiates its claim of limited financial resources.

(20 U.S.C. 3604(a); 20 U.S.C. 3474(a))

§ 231.22 What records must an SEA maintain?

An SEA that applies for a grant under the SEA Asbestos Detection Program shall maintain and make available to the Secretary on request whatever records are necessary to substantiate claims—including cost claims—in the SEA's application.

(20 U.S.C. 3604(b)(1); 20 U.S.C. 3605(c)(1); 20 U.S.C. 3474(a))

Subpart D—How Does the Secretary Make an Award?

§ 231.30 How does the Secretary determine the amount of a grant under the SEA Asbestos Detection Program?

(a) Except as provided in §§ 231.31 and 231.32, the Secretary makes a grant to an SEA equal to 50 percent of that State's award to its LEAs to conduct asbestos detection projects.

(b) However, the Secretary may restrict the amount of the grant to the SEA to ensure that the Federal share of any LEA asbestos detection project in

*(Note: As used in this part the term LEA includes the governing authority of a nonprofit private elementary or secondary school as defined in 34 CFR 230.4(b).)

the State does not exceed the Federal share as specified in 34 CFR 230.30.

(20 U.S.C. 3604(a)(2))

§ 231.31 What criteria does the Secretary apply in considering an application for a grant greater than 50 percent?

The Secretary may increase the amount of a grant if the Secretary determines than an eligible SEA has limited financial resources and would be unable to participate in the SEA Asbestos Detection Program without an increased award.

(20 U.S.C. 3604(a)(2))

§ 231.32 What criteria does the Secretary apply if appropriations do not meet the 50 percent level of assistance?

If appropriations under the Act do not meet the level of assistance described in § 231.30, the Secretary may determine which applicant SEAs have the greatest need for assistance by—

(a) Considering in each of those States the percentage of LEAs that have requested State funds for detecting asbestos hazards; and

(b) Considering—according to one or more the criteria in each of paragraphs (b) and (c) of 34 CFR 230.33—the needs of the LEAs that those SEAs have funded or are funding.

(20 U.S.C. 3611(c))

Subpart E—[Reserved]

Subpart F—What Are the Administrative Responsibilities of a Grantee?

§ 231.50 What report must a grantee submit?

In addition to any reports required by EDGAR, 45 CFR 100a, an SEA that receives a grant under the SEA Asbestos Detection Program shall, not later than 120 days after receiving its grant, file with the Secretary a report that shall include—

(a) A detailed accounting of the funds that LEAs have received from the State to conduct asbestos detection projects; and

(b) A description of—

(1) The asbestos detection projects conducted by LEAs with financial assistance from the State;

(2) The results of those asbestos detection projects, including any findings of the presence in school building materials of asbestos that poses an imminent hazard to the health and safety of school children and school employees; and

(3) The plans of the assisted LEAs for correcting any imminent asbestos hazards that those LEAs detected.

(20 U.S.C. 3604(c); 45 CFR Part 100a)

Subpart G—[Reserved]

Subpart H—What Is the State Plan under This Act?

§ 231.70 What must a State plan contain?

An SEA, as described in § 231.1(b)(1), shall submit to the Secretary not later than December 15, 1980, a plan that—

(a) Describes the manner in which the State shall distribute to its LEAs the information required in § 231.71;

(b)(1) Describes the content of any information in addition to that required in § 231.71(a); and

(2) Provides assurance that the State will continually revise, as necessary, information described in § 231.71 and distribute the revised information to its LEAs;

(c) Describes the procedures the State will use for maintaining records as required in § 231.72; and

(d)(1) Designates a State agency or other State administrative unit responsible for submitting to the Secretary the reports required under § 231.73; and

(2) Provides assurance that the designated agency or unit will carry out the duties required under § 231.73.

(20 U.S.C. 3603(a))

§ 231.71 What information must a State distribute to its LEAs?

(a) Not later than March 15, 1981, a State shall distribute to its LEAs information describing—

(1) The asbestos detection and control programs under this Act;

(2) The procedures and standards for conducting asbestos detection projects;

(3) The procedures and standards for conducting asbestos control projects; and

(4) The health hazards associated with exposure to asbestos fibers.

(b) A State that distributes to each of its LEAs a copy of these regulations and the regulations in 34 CFR Part 230, including all appendices, is considered by the Secretary to be in compliance with paragraphs (a)(1)–(3) of this section.

(20 U.S.C. 3603(a)(1))

§ 231.72 What records must a State maintain?

(a) A State shall maintain records on every LEA within its jurisdiction concerning the following:

(1) The asbestos detection activities conducted by the LEA.

(2) The presence, if any, of friable building materials containing asbestos in each school building of the LEA.

(3) The asbestos control activities conducted by the LEA. These include any activities related to the—

(i) Containment of asbestos materials;

(ii) Removal of asbestos materials; and

(iii) Replacement of asbestos materials with other appropriate building materials.

(iv) The repairs made by the LEA to restore school buildings to conditions comparable to those that existed before the LEA conducted any of the activities listed in paragraph (c) of this section.

(b) A State that maintains a copy of the form filled out by each of its LEAs in compliance with EPA requirements in 40 CFR Part 763, Subpart F (proposed EPA regulations) is considered by the Secretary to be in compliance with paragraphs (a) (1) and (2) of this section.

(20 U.S.C. 3603(a)(3))

§ 231.73 What reports must a State submit?

(a) The State agency or other administrative unit designated by the State in its State plan (see § 231.70(d)(1)) shall submit to the Secretary reports describing the actions taken by the State in accordance with its plan.

(b)(1) The designated agency or unit shall submit its first report no later than six months after the State submits its State plan.

(2) The designated agency or unit shall submit its subsequent reports every six months after submitting its first report.

(3) The designated agency or unit shall submit its final report no later than June 15, 1982.

(20 U.S.C. 3603(b))

Note.—Information in the preceding part—34 CFR Part 230—has a direct bearing on this Part 231. Readers are encouraged to read the preceding part for that information.

Note.—The following two appendices were prepared by the Environmental Protection Agency (EPA). The Department of Education has made stylistic changes in the documents.

(The Secretary of Education proposes these appendices to the proposed regulations in 34 CFR Parts 230 and 231 because (1) the statute requires the Secretary to promulgate regulations on the matters contained in these appendices and (2) EPA has no codified regulations covering a number of these matters.

(Provisions of these appendices are admittedly detailed. Extensive scientific research indicates, however, that these provisions are necessary to protect health and safety in the conducting of asbestos detection and control activities. The Secretary invites comments on this conclusion.)

The attached appendices will be codified in the Code of Federal Regulations—

Appendix A—Asbestos Exposure Assessment Algorithm and Corrective Action Scale

The exposure assessment algorithm (computational procedure) presented in this appendix shall be used to determine—

(a) The likelihood of leakage of asbestos fibers from friable building materials into a school building environment;

(b) The extent of the health hazards posed by that leakage; and

(c) The appropriate corrective action to control the leakage.

In the event that different areas of a building show a variance in the likelihood of leakage of asbestos fibers and potential health hazards, the results of the algorithm may be used to set priorities for corrective action.

The algorithm was developed by the Environmental Protection Agency (EPA) originally to serve as a method of ranking, in order of priority for corrective action, various locations where friable materials containing asbestos were identified.

The algorithm has been used and tested extensively in EPA's Technical Assistance Program for Asbestos-Containing Materials in Schools.

EPA is continuing to test and evaluate the effectiveness of the algorithm as a method of determining the likelihood of leakage of asbestos fibers from friable building materials and the extent of the health hazards posed by that leakage.

The Secretary of Education encourages comments on the algorithm. In particular, the Secretary solicits comments on (1) experiences with this algorithm and (2) information or comments on any other assessment techniques that have been developed or used for assessing levels of exposure to asbestos fibers from friable building materials.

Introduction

The following eight factors—described in Table I of this appendix—shall be considered in determining the likelihood of leakage of asbestos fibers from friable building materials:

Factor 1. Condition of material.
Factor 2. Water damage.
Factor 3. Exposed surface area.
Factor 4. Accessibility.
Factor 5. Activity and movement.
Factor 6. Air plenum or direct air stream.
Factor 7. Friability.
Factor 8. Asbestos content.

The algorithm describes a method for combining these factors to obtain an Exposure Number that will be used—

(a) To help determine whether corrective action should be initiated or deferred;

(b) To assist in setting priorities for corrective action (the higher the scale number, the higher the priority); and

(c) To assist in the selection of appropriate corrective action. The application of the Exposure Number to the Corrective Action Scale indicates appropriate methods for correcting health hazards posed by the presence of friable materials containing asbestos.

Using the Algorithm

There are three steps in using the algorithm:

(a) Step 1: Each of the eight factors is assigned a score or numerical value corresponding to the extent to which that factor applies.

(b) Step 2: The numerical values are combined by a mathematical formula to produce the Exposure Number.

(c) Step 3: The Exposure Number is applied to the Corrective Action Scale.

These three steps—described in greater detail in the following paragraphs—should be performed for each separate sampling area of a building in which asbestos has been found. For identification of sampling areas see EPA's proposed regulations, 40 CFR 763.4.

Step 1: Select the Score for Each Factor

Table I presents a list of the eight factors, a brief description of the extent to which a particular condition applies, and a numerical Factor Score corresponding to that description.

The official making the assessment shall first select the description best fitting the situation in that building area. The scores have been intentionally weighted to reflect the severity of an individual factor's effect on the likelihood of leakage. Only the scores indicated can be assigned to a factor. For example, "0," "2," or "5" is the only permissible score for Factor I: Material Condition; "1," "3," or "4" is not a permissible score for that factor.

Areas of a school that are not homogeneous in appearance, condition, or asbestos content must be evaluated and scored separately. For example, an auditorium with both an inaccessible ceiling over the stage and an accessible ceiling over the audience section contains two different areas for evaluation. The Exposure Numbers for the two areas may differ widely and, therefore, possibly warrant different corrective actions.

Step 2: Calculate the Exposure Number

The Exposure Number is derived from the Factor Scores by a formula. After entering the appropriate Factor Scores on lines 1 through 8 of Table II—

(a) Add Factors 1 through 6, and enter on the line labeled "Sum";

(b) Multiply Factor 7 by Factor 8, and enter on the line labeled "Product"; and

(c) Multiply "Sum" by "Product," and enter on the line labeled "Exposure Number."

This Exposure Number for each evaluated area represents the assessment of the likelihood of leakage of asbestos fibers into the school building environment.

Step 3: Apply the Exposure Number to the Corrective Action Scale

The Corrective Action Scale (Table III) describes four types of corrective action and a range of Exposure Numbers for which each type of corrective action is appropriate.

Apply the Exposure Number derived in Step 2 to the Exposure Number Range in Table III to determine the appropriate corrective action. For example, an Exposure Number of 90 clearly indicates that the materials containing the asbestos should be removed.

Note, however, that the Exposure Number Ranges overlap. Thus, an Exposure Number that falls within two overlapping ranges offers a choice of corrective actions. For example, an Exposure Number of 10 offers a choice of encapsulation, enclosure, or deferral of corrective action. In this case, the choice of corrective action should be based on the considerations listed in Table III.

In some cases, because of the severity of one of the factors referred to in Step 1, the most appropriate corrective action may differ from the action recommended in Step 3. For example, if a given area of a building has an Exposure Number of less than 40 in Step 2 but has a serious roof leak that cannot be corrected, because of design problems, the material should be removed. Enclosure or encapsulation would not be appropriate or cost-effective due to the strong likelihood of continued water damage.

Similarly, if a location, such as a stairwell, has an Exposure Number of less than 40 but high accessibility, the material may have to be removed because of the strong likelihood of damage to any enclosed or encapsulated material.

Table I: Factor Description and Scores

Factor 1. Condition of Material

The condition of the asbestos materials may indicate the possibility of fibers being released into the school building area (i.e., contamination) and the potential for future fiber release. An assessment of the condition depends on: the quality of the installation, adhesion of the material to the underlying substrate (the structural element to which the material containing asbestos is applied), deterioration, vandalism, and damage.

This factor is comprised of three levels:

(a) *No damage or deterioration.* Material is intact and shows no signs of damage or deterioration.

Score 0.

(b) *Moderate damage or deterioration.* Visual inspection indicates that—

(1) The material is breaking up into layers or beginning to come loose from the substance;

(2) There are small areas where the material is deteriorating;

(3) There may be signs of accidental or intentional damage—such as finger marks or impact marks from maintenance or athletic activities—or small areas dislodged.

Score 2.

(c) *Severe damage or deterioration.*

(1) The material is non-cohesive;

(2) Pieces are dislodged and debris is evident;

(3) Parts of the material may be hanging from the ceilings or may have fallen to the floor; or

(4) Severe accidental or intentional damage is visible.

Score 5.

Factor 2. Water Damage

Water from roof leaks or high humidity locations—such as pools or locker rooms—can dislodge, detach, or disturb friable asbestos materials that are otherwise in good condition and can increase the potential for fiber release by dissolving and washing out the binders in the material.

Water can also carry fibers to other areas where evaporation will leave a collection of fibers that can become resuspended in the air.

This factor is comprised of three levels:

(a) *No water damage.*

(1) No water stains or evidence of the material being disturbed by water; or

(2) No stains or buckling on the floor, ceiling, or wall to indicate past water damage.

Score 0.

(b) *Minor water damage.* Small areas of the material or adjacent floor, walls, or both show water stains, and ceiling material may be slightly buckled. However, pieces have not fallen from the ceiling, and the damage affects 10 percent or less of the material.

Score 1.

(c) *Moderate to major water damage.*

(1) Water has dislodged some of the material and caused the material to break away, to fall, or to beome so saturated that it might fall; or

(2) More than 10 percent of the material has been affected (Note: A large area of minor damage is as significant as a small area of major damage); or

(3) Both (1) and (2).

Score 2.

Factor 3. Exposed Surface Area

The extent to which friable material is exposed increases the likelihood that asbestos fibers will enter the school building environment. The extent of exposure also increases the likelihood of contact with and damage to the friable material. The visibility of friable material is a useful criterion for determining the amount of exposed surface area.

Areas with louvers, grids, or other open ceiling systems should be considered exposed.

Asbestos material above a suspended ceiling is not considered exposed unless—

The ceiling panels are removed for regular maintenance; or

The panels are damaged (e.g., due to vandalism or maintenance) or missing.

This factor is comprised of three levels:

(a) *No material is exposed.* For example, all asbestos materials are contained behind a solid suspended ceiling that is very hard to open and shows no sign of damage.

Score 0.

(b) *Ten percent or less of the material is exposed.*

(1) Suspenced ceiling is opened occasionally or has damaged or missing panels; or

(2) More than 10 percent of the material is covered by an impermeable material.

Score 1.

(c) *More than 10 percent of the material is exposed.*

Score 4.

Factor 4. Accessibility

If friable material containing asbestos can be reached by building users or maintenance people, it is accessible and, therefore, most likely to be disturbed in the future, either accidentally or intentionally. This is one of the most important indicators of likelihood of leakage of asbestos fibers.

The proximity of the friable material containing asbestos to heating, ventilation, lighting, and plumbing systems requiring maintenance or repair also indicates accessibility.

In addition, the activities and behavior of persons using the building should be considered in evaluating accessibility. For example, persons involved in athletic activities may accidentally cause damage to the material on the walls and ceilings of gymnasiums through contact by balls or other athletic equipment.

The building may also be subject to damage by vandalism, particularly in areas such as hallways, stairwells, and locker rooms.

This factor is comprised of three levels:

(a) *Not accessible.*

(1) The material is located above a suspended ceiling or is concealed by ducts or piping;

(2) The building occupants cannot touch the material; or

(3) Ducts, piping, or electrical systems that require maintenance are not located near the asbestos materials.

Score 0.

(b) *Rarely accessible.*

(1) The material is contacted only during abnormal activity such as infrequent maintenance or repair;

(2) Building occupants rarely touch the material or throw objects against it.

Score 1.

(c) *Accessible.*

(1) Material is contacted frequently due to routine maintenance; or

(2) The building occupants are likely to contact the material (i.e., occupants are likely to touch and dislodge the material or throw objects against it).

Score 4.

Factor 5. Activity and Movement

This factor combines the effects of general causes that may result in disturbance of or damage to friable material containing asbestos. These causes include air movement, building vibration from machinery or any other source, and activity levels of persons using the building.

This factor is comprised of three levels:

(a) *Little or no activity.* There is little or no activity and, thus, little vibration in areas such as administrative offices, libraries, some classrooms, rarely used storage rooms, and fire exits. The population is quiet and non-destructive.

Score 0.

(b) *Moderate activity.* There is moderate activity that could cause regular vibration in areas such as cafeterias, corridors, and some classrooms.

Score 1.

(c) *High activity.* There is high activity and, thus, a likelihood of high vibration, if—

(1) Persons using cafeterias, stairwells, corridors, etc., are vandalous or disruptive;

(2) Rooms are used for athletic activities or contain machinery; or

(3) Areas are adjacent to very high sources of vibration (e.g., highways, certain industrial arts shops, etc.).

Score 2.

Factor 6. Air Plenum or Direct Air Stream

Undisturbed, friable, material containing asbestos within an air plenum (the space used for conveyance of conditioned air and the return of air to the conditioning unit or fan mechanism) or in an air stream has a low potential for contaminating a building's environment. However, this factor must be considered since contamination may result from contact, from damage during maintenance, repairs, or renovations, or if the air stream is very turbulent.

An air plenum exists when return air leaves a room or hall—or, in rare cases, when conditioned air enters a room or hall—through vents in a suspended ceiling and travels at low speed and pressure through the space between the actual ceiling and the suspended ceiling or ducts.

For the purpose of scoring this factor, a plenum is present if friable material containing asbestos is found in that space. A direct air stream is present if ducts for the heating or air conditioning system blow directly on asbestos material.

This factor is comprised of two levels:

(a) *No air plenum or direct air stream.*

Score 0.

(b) *Air plenum or direct air stream.*

Score 1.

Factor 7. Friability

The term friable is applied to material that can be crumbled, pulverized, or reduced to powder by hand. *In order to score the material in question, it must be touched.* The safety procedures for sampling should be followed when material is touched. (See 34 CFR 230.41.)

Material containing asbestos can vary in degree of friability. The more friable the material, the greater the potential for the release of asbestos fibers. Asbestos-containing material that is applied by spray is generally more friable than material applied by trowel.

This factor is comprised of three levels:

(a) *Low friability.* Material that is difficult yet possible to damage by hand.

Score 1.

(b) *Moderate friability.*

(1) Material that with some difficulty can be dislodged and crushed or pulverized by hand; or

(2) Material that can be removed in small or large pieces, and evidence of dust can be seen when the surface of the material is brushed by hand.

Score 2.

(c) *High friability.* Material that is fluffy, spongy, or flaking and may have pieces hanging down.

Score 3.

Factor 8: Asbestos Content

The total asbestos content of a given sample is determined by adding the percentage of each type of asbestos found in that sample.

Asbestos content must be established in accordance with the analytical techniques in 40 CFR 763.5. Building records or assumptions are not reliable or acceptable.

This factor is comprised of three levels:

(a) *Trace amounts up to one percent.*

Score 0.

(b) *More than one percent up to 50 percent.*
Score 2.
(c) *More than 50 percent.*
Score 3.

Table II.—*Calculation of Exposure Number*

Factor number	Factor score
1. Material Condition:	
No damage or deterioration (0)	
Moderate damage or deterioration (2)	
Severe damage or deterioration (5)	
2. Water Damage:	
No water damage (0)	
Minor water damage (1)	
Moderate to major water damage (2)	
3. Exposed Surface Area:	
No material is exposed (0)	
10 percent more or less is exposed (1)	
More than 10 percent is exposed (4)	
4. Accessibility:	
Not accessible (0)	
Rarely accessible (1)	
Accessible (4)	
5. Activity and Movement:	
Little or no activity (0)	
Moderate activity (1)	
High activity (2)	
6. Air Plenum:	
No plenum or direct air stream (0)	
Plenum or direct air stream (1)	
Sum [Add the scores of Factors 1 through 6]	
7. Friability:	
Low friability (1)	
Moderate friability (2)	
High friability (3)	
8. Asbestos Content:	
0 to 1 percent (0)	
More than 1 percent up to 50 percent (2)	
More than 50 percent (3)	
Product [Multiply the score of Factor 7 by the score of Factor 8]	
Exposure Number (Multiply the Sum by the Product)	

Table III. Corrective Action Scale

The Corrective Action Scale provides guidance for the choice of appropriate corrective action based on the Exposure Number determined from Table II. While in most cases the Exposure Number will indicate the most appropriate corrective action, not all possibilities can be predicted with the algorithm.

In those situations in which there is some overlap in the Exposure Number Ranges or in which one of the eight factors described in Table I has an overriding effect of fiber release (see "Using the Algorithm; Step 3"), the choice of appropriate corrective action should be based on the considerations listed for each applicable range.

Corrective action	Exposure number range
Deferred action:	0–12
(a) Advantage: There is no immediate cost associated with deferred action.	
(b) Disadvantages:	
(1) The potential for exposure may increase.	
(2) A management system is required. Precautions are necessary to prevent damage during maintenance or renovation.	
(3) It is necessary to have continuous inspection and reevaluation.	
(c) When Appropriate:	
When there is negligible exposure potential.	
(d) When inappropriate:	
(1) When there is definite or questionable exposure potential.	
(2) When continuing inspection is doubtful.	
Encapsulation:	10–5
(a) Advantages:	
(1) It controls fiber release.	
(2) It is a rapid and economical method.	
(b) Disadvantages:	
(1) The source of the asbestos remains in the building.	
(2) If the material is damaged or deteriorating, the additional weight of the sealant may cause layers of the material to break away from the underlying surface.	
(3) A management system is required. Precautions are necessary to prevent damage during maintenance or renovation.	
(4) Requires continuing inspection and maintenance for damage or deterioration to encapsulated surface (i.e., future potential for fiber release is possible).	
(5) Encapsulated material is very difficult to remove if removal becomes necessary (for instance, when the building is eventually demolished).	
(c) When appropriate:	
(1) When removal is not feasible.	
(2) When the material is of low friability.	
(3) When the material still retains bonding integrity.	
(4) When damage to the material is not probable.	
(5) When accessibility to material is limited.	
(6) When the surface in question is complex (e.g., pipes, lines, and ducts).	
(7) When there are economic or time constraints.	
(d) When inappropriate:	
(1) When removal is feasible.	
(2) When the material is highly friable.	
(3) When the material does not adhere well to the substrate. The weight of the sealant may cause further damage or failure.	
(4) When the material is deteriorating or damaged.	
(5) When damage to the material is probable.	
(6) When water damage or the potential for water damage is evident.	
(7) When there is high accessibility.	
(8) When continuing inspection and maintenance of encapsulated material are doubtful.	
Enclosure:	10–50
(a) Advantages:	
(1) It controls fiber release.	
(2) It may be the most rapid, economical, and uncomplicated method.	
(b) Disadvantages:	
(1) The source of the asbestos remains in the building.	
(2) Fiber fallout continues behind the enclosure.	
(3) It may be costly if enclosure disturbs functions of other systems (e.g., enclosure may require lighting changes).	
(4) A management system is required. Precautions are necessary for entry into enclosure for maintenance or renovation.	
(5) Continuing inspection and maintenance of damage to enclosure system are required.	
(c) When appropriate:	
(1) When removal is not feasible.	
(2) When disturbance or entry into enclosed area is not likely.	
(d) When inappropriate:	
(1) When removal is feasible.	
(2) When damaged or deteriorating material causes a high level of fiber fallout.	
(3) When water damage to enclosure is likely.	
(4) When entry into enclosure is likely for repairs and maintenance.	
Removal:	40+
(a) Advantages:	
(1) It eliminates the source of the asbestos.	
(2) It ends the exposure and precludes the development of future problems.	
(b) Disadvantages:	
(1) It is usually the most costly, complicated, and time-consuming method.	
(2) Replacement of the removed material with substitute material may be necessary.	
(3) There is a higher potential for exposure of workers to asbestos hazards.	
(c) When appropriate:	
(1) When there is high exposure.	
(2) When the material is deteriorating, highly accessible, or has severe water damage.	
(3) When open material surfaces exist.	
(d) When inappropriate:	
(1) When removal is not feasible because of the location of the material and the kind of surface to which the material has been applied (e.g., removal of material from complex surfaces such as pipes, lines, and ducts may be difficult).	
Summary	
(a) If the Exposure Number is 0–12, deferred action is usually appropriate.	
(b) If the Exposure Number is approximately 40 or more, removal is usually the best corrective action.	
(c) If the Exposure Number is 10–50 and there is severe water damage or high accessibility, removal is the best corrective action.	
(d) If the Exposure Number is 10–50 and the water damage and accessibility factors are low, various factors—such as economic and time constraints and complexity of the surfaces—need to be examined. The three corrective actions possible are encapsulation, enclosure, and removal.	

Appendix B—Procedures for Containing and Removing Building Materials Containing Asbestos

These procedures have been developed by the Environmental Protection Agency and represent the best information currently available on controlling the release of fibers from friable materials containing asbestos. The purpose of the procedures is to reduce to

the maximum extent possible the risk of contamination of areas of a building adjacent to the area in which asbestos containment or removal activities are being conducted and to provide maximum protection for workers involved in those activities and other users of the building. The Secretary of Education encourages comments on these procedures.

I. Introduction

(a)(1) The three methods for containing or removing material containing asbestos are:

(i) Encapsulation, in which the material is coated with a bonding agent called a sealant to prevent the release of fibers.

(ii) Enclosure, in which the material is separated from the building environment by impermeable barriers.

(iii) Removal.

(2) Each of these methods can be used separately or in combination with one or both of the others.

(b) In order for encapsulation, enclosure, or removal to reduce imminent hazards to the health and safety of school children and school employees, the work must be performed carefully. Poorly performed work not only creates a risk for persons performing this work, but is likely to increase the risk to students, school employees, and other persons using the building. To insure that the building environment and the outside air are not contaminated and that workers are protected from exposure to asbestos, all procedures for encapsulation, enclosure, or removal must—

(1) Conform to the procedures contained in Section II (of this appendix), General Work Practices.

(2) Conform to the specific work practices contained in the appropriate section of this appendix for the specific control method used. Section III contains work practices for encapsulation. Section IV contains work practices for enclosure. Section V contains work practices for removal;

(3) Comply with OSHA asbestos regulations, 29 CFR 1910.1001; and

(4) Comply with EPA regulations, 40 CFR Part 61, Subpart B, National Emission Standards for Hazardous Air Pollutants (NESHAPS): Asbestos.

(c) Persons who perform encapsulation, enclosure, or removal must become familiar with these requirements before taking any action. The OSHA and NESHAPS regulations can be found in *Asbestos-Containing Materials in School Buildings: A Guidance Document,* Part 1, which is available by calling 800–424–9065 (in Washington, D.C., 554–1404).

II. General Work Practices

All procedures for containment and removal of asbestos must comply with the following:

(a) *Medical services.* The party responsible for the encapsulation, enclosure, or removal (referred to in these appendices as "The contractor") shall provide medical services to employees as required by OSHA regulations, 29 CFR 1910.1001(j).

(b) *Worker Instruction.* The contractor and its employees shall be instructed, prior to the beginning of the encapsulation, enclosure, or removal, in—

(1) The health hazards of asbestos;

(2) The use of respirators and protective clothing;

(3) Work practices and safety procedures;

(4) Control of the release of asbestos fibers; and

(5) Proper preparation and decontamination of a worksite.

(c) *Materials.* The contractor shall obtain the following materials, which are necessary for any procedure related to the encapsulation, enclosure, or removal of asbestos: (Note: The following list does not include ordinary construction materials such as lumber and hardware. It also does not include materials that are necessary for one procedure but not the others. These are discussed in the individual sections on encapsulation, enclosure, and removal.)

(1) Respirators (see paragraph (d)).

(2) Replacement cartridges for respirators.

(3) Disposable clothing for workers, including headgear and footwear.

(4) Shoes for use in the work area. Workers may not wear the same pair of shoes in the work area as they do in the clean areas of the building.

(5) Duct tape.

(6) Polyethylene sheets (6 mil., and 2 or 4 mil.).

(7) Warning signs. (See OSHA regulations, 29 CFR 1910.1001(g)).

(d) *Respirators.* The contractor shall select the proper type of respirator in accordance with OSHA regulations, 29 CFR 1910.1001(d). The contractor shall be able to demonstrate that the type of respirator used by its employees is appropriate for the level of fibers found or expected in the work area, as required by § 1910.1001(d)(2).

(e) *Decontamination area.*

(1) Before beginning the encapsulation, enclosure, or removal, the contractor shall construct a decontamination area to prevent release of fibers to the exterior environment and to protect workers and others from fiber inhalation. This decontamination area must consist of three rooms:

(i) A clean room where workers enter and leave the jobsite.

(ii) A shower for decontamination of workers before they leave the job area.

(iii) A room for removal and storage of contaminated items. This room is referred to in this appendix as the "contaminated room."

(2) If it is possible to use existing rooms in close proximity to the worksite, it may be necessary to construct temporary tunnels, from lumber and plastic, to connect these rooms to the work area. If it is not possible to use existing rooms in close proximity to the worksite, it may be necessary to construct a temporary clean room, shower, and contaminated room, from lumber and plastic, near the work area. Although some innovation is likely to be necessary, the arrangement for the decontamination area must include the following features:

(i) There must be one clearly designated route from the clean room through the contaminated room, into the work area, and back out. The shower may be used as a segment of the passageway between the clean room and the contaminated room. The doorway between the contaminated room and the work area is the only doorway through which anyone may be allowed to enter the work area; there may not be any other entrance. If there is a doorway directly from the clear room to the contaminated room, it must be used for traffic in the direction only. No one may be allowed to go from the contaminated room to the clean area without first passing through, and using, the shower.

(ii)(A) The contractor shall construct airlocks in any passages between the clean room and the contaminated room. Each airlock must consist of two sets of two plastic sheets: one set at one end of the airlock and the other at the other end, at least two meters away. Each of the sheets must extend from floor to ceiling and be constructed of 2 or 4 mil. plastic. The plastic sheets must be hung close together, with one sheet taped along the top of the doorway and down one side and the other taped along the top and down the other side.

(B) The shower should also function as an airlock with a set of two sheets at each entrance. If the shower is the only passage between the clean room and the contaminated room, no other airlocks are necessary.

(iii) The clean room must contain a space where workers can place their street clothes and a space for the storage of clean work clothes, respirators, respirator cartridges, soap, and towels.

(iv) If there are no usable permanent shower facilities, the contractor shall construct a temporary shower. The shower must have a ceiling. The shower must have a container for the disposal of used respirator cartridges. Water from the shower must be be pumped to an existing drain in the building or collected for disposal.

(v) The contaminated room must have an area for workers to remove contaminated clothing and shoes and to store contaminated personal items (such as workshoes and gloves) and contaminated tools and equipment. It must also have containers for disposal of contaminated clothing for disposal as contaminated waste (see paragraph (k)).

(vi) Toilets, permanent or portable, must be available in the work area or contaminated room.

(f) *Work area preparation.* Before beginning the encapsulation, enclosure, or removal, the contractor and its employees shall use the following procedures to prevent the release of asbestos fibers from the work area:

(1) Clean all movable items—such as furniture and equipment—with damp cloths and store it in a clean area outside of the work area. Clean all immovable items with damp cloths, wrap the immovable items completely in plastic, and secure the plastic with duct tape. Dispose of the cleaning cloths as contaminated waste (see paragraph (k)).

(2) Bring in any large pieces of equipment, such as scaffolds and airless sprayers, that will not fit easily through the airlocks.

(3) Isolate the work area completely from the rest of the building by constructing barriers across all doorways or corridors except those in the decontamination area that are to be used by the workers. Construct the barriers so as to prohibit passage through them. Use 6 mil. plastic, and tape the seams securely.

(4) Turn off all heating, ventilation, and air conditioning systems. Seal all heating registers, vents, and air ducts with plastic sheeting and duct tape. Lock windows and seal them with plastic tape. Remove all curtains, blinds, and other window coverings.

(5) Cover the floors with at least one layer of 6 mil. plastic sheets. Bring the floor coverings up the walls and attach them with duct tape to the wall coverings approximately two feet above the floor. Cover the walls with 2 or 4 mil. plastic sheets so that the sheets overlap the floor sheets, and secure them in place with tape.

(6) Turn off all electrical circuits and lock the electrical panels or boxes. If necessary, install temporary lighting.

(7) Post warning signs outside all entrances to contaminated areas of the building as specified in OSHA regulations, 29 CFR 1910.1001(g).

(8)(i) Arrange for air monitoring and inspections as required by OSHA regulations, 29 CFR 1910.1001(f) (air monitoring services should be provided by a reputable laboratory under direct contract to the building owner). At a minimum, have a single environmental sample collected outside the building at the beginning of the project.

(ii) Each day during the encapsulation, enclosure, or removal procedure, collect at least two air samples within the work area and two air samples immediately outside the work area.

(9) Take down light fixtures in the work area. Clean them with damp cloths and remove them from the work area, or—if debris on the fixtures cannot be removed—discard the fixtures as contaminated waste (see paragraph (k)).

(10) If it is necessary to remove a suspended ceiling to reach the materials containing asbestos, carefully take down the ceiling. Clean the ceiling tiles with damp cloths and store them outside the work area, or—if debris on the tiles cannot be removed—dispose of the tiles as contaminated waste (see paragraph (k)).

(g) *Measures for worker protection.* Each worker, and any other person who enters the job site (e.g., an industrial hygienist, and inspector, etc.) shall follow these procedures:

(1) In the clean room before entering the work area, remove all street clothing, underwear, and shoes. Put on respirator, then dress in disposable coveralls and headgear (note that it is necessary to put on the respirator before the disposable headgear). Pass through the airlocks into the contaminated room. Then proceed to the work area.

(2) Never remove respirator while in the work area. No one may eat, drink, smoke, or chew tobacco or gum while in the work area.

(h) *Procedures for worker decontamination.* At the end of each work shift and before breaks, workers and any other persons in the work area shall follow these procedures when leaving the work area:

(1) Before entering the contaminated room, remove all gross contamination from disposable clothing.

(2) In the contaminated room, remove all clothing and work shoes, leaving on only the respirator.

(3) Proceed to the shower and wet hair, body, and respirator before removing respirator. Complete shower, washing thoroughly with soap and water.

(4) Remove and discard respirator cartridges in the container provided in the shower. Proceed to the clean room. Clean respirator with a disinfectant, dry it, insert new cartridges, and place respirator in a dry, clean plastic bag.

(5) Put on street clothes and shoes or a new set of disposable clothing.

(i) *Corrective action.* Refer to Sections III, IV, and V of this appendix for directions on the specific control procedures being used.

(j) *Procedures for cleaning the work area.* (Note: The contractor and its employees shall follow personal protection procedures (see paragraphs (g) and (h)) while conducting steps (1) through (7) of this paragraph (j)).

(1) Dispose of all scrap and debris from the work area, the contaminated room, and the clean room. Treat this debris as contaminated waste (see paragraph (k)).

(2) Remove all floor and wall coverings except heating and ventilation duct covers, barriers, and airlocks. Dispose of the plastic and other materials as contaminated waste.

(3) Wet-clean, with a damp mop, sponge, or cloth, all floors, walls, and other surfaces—including any furniture and equipment in the work area or contaminated room. Wait 24 hours to allow airborne fibers to settle; during this period allow no ventilation or traffic in the area.

(4) Wet-clean all surfaces again, and again wait 24 hours.

(5) Wet-clean all surfaces once more (EPA recommends that this final cleaning be supplemented by the use of a High Efficiency Particulate Absolute (HEPA) vacuum cleaner).

(6) Visually inspect the entire area to make sure it is clean. If dry wiping of surfaces reveals dust contamination, do further wet-cleaning. The monitoring of air may be required by the State or locality or specified in the contract.

(7) When the entire area is clean, dismantle all airlocks, barriers, and temporary shower facilities. Remove coverings from heating and ventilation ducts. Inspect all ducts, especially the horizontal sections, for debris containing asbestos, and vacuum with a HEPA vacuum or wet-clean the ducts, as necessary. Replace all heating, ventilation, and air conditioning filters, and dispose of old filters as contaminated waste. Dispose of all plastic and lumber as contaminated waste. Remove from the work area all cleaned equipment belonging to the contractor.

(8) Return to the work area furniture and other movable items stored during the encapsulation, enclosure, or removal. Restore electrical and other systems to operation, and return the building to normal use.

(k) *Disposal of contaminated waste.* The contractor and its employees shall follow the procedures in paragraphs (k)(1) through (4) when disposing of asbestos-contaminated waste—including asbestos-containing materials removed from the building structure, lumber and plastic used in barriers and airlocks, debris remaining on the floor, cleaning cloths, and any other contaminated materials.

(1) Place the waste in impermeable containers (EPA recommends that the waste be placed in 6 mil. polyethylene bags and that the bags be placed in sealable fiber drums). The waste containers must be sealed and labeled with warning signs as required by OSHA regulations, 29 CFR 1910.1001(g)(2).

(2) Handle containers carefully so that they do not break. The containers must be taken to the entrance of the work area, cleaned with a damp cloth, and placed in the airlock.

(3) A decontaminated worker shall take the waste containers from the airlock to a loading area for transportation to a disposal site.

(4) EPA recommends that all workers involved in disposal activities wear respirators.

(5) Dispose of the waste in compliance with EPA regulations, 40 CFR 61.22 and 61.25.

(6) Contractors using bags and drums shall observe the following procedures:

(i) If a bag is intact, it may be removed from the drum before disposal, and the drum may be recycled.

(ii) If a drum has been contaminated by leakage from a broken bag inside it, it must be buried with the bags.

III. Work Practices for Removal

These procedures are for wet removal of building materials containing asbestos. Wet removal is the most common removal method. Removal operations using other techniques are also acceptable if the contractor can demonstrate that those techniques are in compliance with EPA and OSHA regulations.

After completing construction of the decontamination area and preparation of the work area, the contractor and its employees shall follow these procedures in removing and disposing of materials containing asbestos:

(a) *The removal process.*

(1) Thoroughly saturate with water the material containing asbestos. EPA recommends the use of water that has been amended with a surfactant, or wetting agent, to increase its penetration and reduce the volume of water required. This surfactant is usually 50 percent polyoxyethylene ether and 50 percent polyoxyethylene ester or the equivalent (such as a low-sudsing soap). It is mixed with water at a rate of one ounce of surfactant to five gallons of water.

(2) Spray the amended water onto the material in a fine mist, using either an airless spray gun set at low pressure or some other low-pressure applicator such as a hand-held pesticide applicator.

(3) To make sure the material is thoroughly saturated, it may be necessary to spray it several times or to spray it once the night before removal is planned and again immediately before removal.

(4) Remove material containing asbestos, using broad-bladed putty knives or any other suitable tools. If any dry areas are exposed during the course of removal, stop scraping immediately and spray the dry material with water. To remove the last of the material containing asbestos, use a wire brush, wet rag, or sponge.

(5) Usually the material containing asbestos is allowed to drop to the ground. If the workers are standing on the ground, they can immediately place the removed material directly into sealable, impermeable containers. If scaffolding is used, the wet material containing asbestos can be collected in sealable, impermeable containers mounted on the scaffolding. One convenient method involves constructing chutes that lead directly into containers that are also attached to the scaffolding near the floor.

(6) No matter what collection technique is used, the wet material must be placed in sealable, impermeable containers BEFORE IT DRIES.

(7) If the material is to remain on the floor for any length of time, it must be periodically resprayed with water to keep it moist.

(8) EPA recommends that 6 mil. plastic bags be used as containers for asbestos waste and that the bags be placed in fiber drums for transportation to the disposal site.

(9) OSHA requires that the filled containers be sealed and warning labels attached. (See 29 CFR 1910.1001(g)(2).)

(b) *The disposal process.*

(1) The contractor shall dispose of containers of asbestos-contaminated waste in accordance with the provisions of paragraph (k) of Section II of this appendix.

IV. Work Practices for Encapsulation

(a) A contractor that encapsulates material containing asbestos in order to reduce imminent hazards to the health and safety of school children and school employees shall use sealants that have been awarded fireproofing ratings of Class "A."

(b)(1) In order to minimize the release of fibers, sealants should be applied with an airless spray gun set at the minimum pressure at which the sealant can be applied.

(2) Sealants that cannot be applied by airless spray shall be applied at the lowest possible pressure to reduce fiber release.

(c) The contractor shall consult with the sealant's manufacturer to learn the recommended coverage rate, number of coats, time allowed between coats, and dilution of sealant, if any.

V. Work Practices for Enclosure

(a) A contractor that encloses material containing asbestos in order to reduce imminent hazards to the health and safety of school children and school employees shall insure that—

(1) The material to be enclosed is not exposed to an air plenum system; and

(2) The barriers constructed to enclose the material are airtight and impermeable.

(b) Installation of an enclosure barrier usually necessitates either penetrating or touching the material containing asbestos. Because this operation is usually performed dry, higher fiber levels than those created during removal operations are usually present and may require more stringent respiratory protection for workers. These requirements are described in OSHA regulations, 29 CFR 1910.100.

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